



8363 WEST SUNSET ROAD, SUITE 200  
LAS VEGAS, NV 89113-2210  
TELEPHONE: (702) 382-4002  
FACSIMILE: (702) 382-1661  
<http://www.dickinsonwright.com>

JENNIFER J. GAYNOR  
JGAYNOR@DICKINSONWRIGHT.COM  
(702) 550-4462

March 3, 2016

Ms. Marie Bell  
Executive Secretary  
Gaming Control Board  
555 E. Washington Avenue, Suite 2600  
Las Vegas, NV 89101

Re: Written Comments of US Fantasy regarding their fantasy sports offering for the Gaming Policy Committee Meeting to be held on March 7, 2016

Dear Ms. Bell:

Our office represents US Fantasy regarding the matter referenced above, and respectfully submits this letter on behalf of our client.

### **Background**

Daily Fantasy Sports (DFS) is a topic of hot legal discussion across the United States today. DFS has proven to be of great interest to the millennial generation and would provide a great addition and draw to the current gaming mix within Nevada's land-based casinos.

As the worldwide model for gaming, Nevada is poised to lead with a strictly regulated DFS model - but only if we can formulate the right strategy to ensure that Nevada is able to utilize its first-in-the-world gaming resources and gold standard of compliance to lead this burgeoning industry in a safe and legal way. After all, consumer trust takes years to build, but only moments to destroy. It is of the utmost importance that Nevada's gaming regulators ensure that the DFS industry in Nevada maintains the same vibrancy, competitiveness, reliability, and trustworthiness of the greater gaming industry as a whole.

### **Introducing US Fantasy - On Deck to Become Nevada's First Licensed Gaming Operator to Offer DFS-Style Wagering**

Vic Salerno is a long-time, reputable gaming business operator in Nevada. He is the only sports-betting professional to have been inducted into the exclusive American Gaming Association's Hall of Fame. Mr. Salerno has a long history of lawful, regulated sports-entertainment gaming operations. With his new business venture US Fantasy (USF), Mr.

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Salerno is hoping to become the first Nevada-licensed gaming operator to offer DFS-style wagering.

What is USF? It is a regulated DFS platform that can help Nevada become the model and leader for a consumer-protected, transparent DFS game. In a nutshell, USF will be a Nevada sports pari-mutuel operator that will offer a fantasy sports product that allows players to make fantasy-type sports wagers utilizing the existing pari-mutuel system. USF will be Nevada-licensed and will operate pursuant to *existing Nevada gaming statutes and regulations*.

Some key points:

- USF has applied for a Nevada gaming license and, if approved, will be the first to legally offer a DFS product under the watchful eye of Nevada's gaming regulators.
- If approved, UFS would also be the first tax-paying DFS product provider in Nevada.
- The transparency of the pari-mutuel pools and its contestant-determined pricing eliminates the possibility of 'insider trading' concerns. Pari-mutuel, which literally means wagering amongst ourselves, has been time-tested, legal and regulated worldwide for decades.
- By utilizing the time-tested pari-mutuel system, with its transparency, contestant-determined pricing and guaranteed win for the operator as the base for USF's fantasy offerings, USF will offer unparalleled consumer protections for contestants and regulators. The USF concept confidently addresses the expressed DFS concerns of the national professional sports leagues.

### **The USF Vision for a Nevada-Based National Business Model**

Once established as a licensed Nevada sports pari-mutuel operator, USF would like to expand its business model outside the State. We would do so pursuant to Nevada Gaming Commission Regulation 26B, through agreements with other pari-mutuel-enabled state jurisdictions, while maintaining the central hub operations for USF in Nevada. This would create new gaming jobs and tax revenues for the State of Nevada while tapping in- legally - to what could be a huge national market.

Pari-mutuel wagering is currently legal in 43 states, so the comfort with this style of wagering is widespread. To conduct interstate pari-mutuel sports wagering legally, however, there is a need to address federal law – specifically, the Professional and Amateur Sports Protection Act ("PASPA"). As currently written and interpreted, PASPA could preclude any state but Nevada from authorizing a pari-mutuel fantasy product. The Federal

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Wire Act of 1961 and the interpretation of its prohibitions and safe harbor also would need to be considered.<sup>1</sup>

We are looking into the possibility for such federal changes with the help of Nevada's U.S. Congressional Representatives and will keep Nevada's gaming regulators and leadership in the legislature and the Governor's office apprised of our efforts on this front.

### **Benefits for Nevada**

As you may know, the Nevada pari-mutuel industry has been experiencing a sharp decline while the sports-betting industry has averaged double-digit growth in Nevada over the last five years. It is our belief that USF's pari-mutuel fantasy product – coupled with the recommended approach to PASPA - could drive much-needed revenue to Nevada by tapping in to the national interest in fantasy sports betting in a legal manner while improving the more-stable pari-mutuel business.

We very much appreciate your time and interest. Please do not hesitate to contact us with any questions or if you would like us to provide any further information.

Very truly yours,

Kate Lowenhar-Fisher

Jennifer Gaynor

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<sup>1</sup> For your reference, we are including a link (<http://chaselaw.nku.edu/content/dam/chaselaw/docs/academics/lawreview/v42/v42no3/7-Lowenhar-Fisher%20and%20Gemignani.pdf>) to a short law review we have authored, which provides an overview of how DFS intersects with PASPA and other state and federal laws.